

## Message Text

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67

ACTION L-03

INFO OCT-01 EUR-25 IO-13 ADP-00 COA-02 EB-11 OIC-04

CIAE-00 DODE-00 PM-07 H-02 INR-10 NSAE-00 NSC-10

PA-03 RSC-01 PRS-01 SS-15 USIA-12 ACDA-19 AEC-11

AGR-20 CG-00 COME-00 DOTE-00 FMC-04 INT-08 JUSE-00

NSF-04 OMB-01 TRSE-00 EA-11 RSR-01 /199 W

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R 312005 Z MAY 73

FM AMEMBASSY OTTAWA

TO SECSTATE WASHDC 1106

INFO USMISSION USUN NEW YORK

C O N F I D E N T I A L OTTAWA 1271

E. O. 11652: GDS

TAGS: EFIS, CA, PBOR

SUBJECT: EXTAFF REINTERPRETS MINISTER DAVIS' REMARKS ON  
FISHERIES JURISDICTION

REF: OTTAWA 1249

1. SUMMARY. EXTAFF LEGAL OFFICERS HAVE REINTERPRETED  
MINISTER OF THE ENVIRONMENT DAVIS' REMARKS OF MAY 26  
TO CONFORM MORE CLOSELY WITH GOC POLICY ON FISHERIES  
JURISDICTION. DAVIS' REMARKS HAVE PUSHED PROGRESSIVE  
CONSERVATIVE OPPOSITION INTO STRONG POSITION ON THIS  
ISSUE. UNLESS DEPARTMENT OBJECTS, EMBASSY INTENDS TO  
SEEK CLARIFICATION OF GOC POSITION AT APPROPRIATELY  
HIGH LEVEL. END SUMMARY

2. IN EFFORT TO CLARIFY GOC FISHING JURISDICTION  
POLICY IN WAKE OF MINISTER ENVIRONMENT ( AND FISHERIES)  
DAVIS BLOCKBUSTER REMARKS OF MAY 26 ( REFTEL), EMBOFF  
SPOKE WITH EXTAFF LEGAL DIVISION DEPUTY DIRECTOR LAPOINTE  
AND LEGAL OFFICER APPLEBAUM. BOTH CLEARLY HAD BEEN  
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TAKEN BY SURPRISE BY DAVIS' REMARKS AND HAD BEEN DOING HANDSTANDS IN EFFORT TO FIT DAVIS' STATEMENTS TO OFFICIAL GOC POLICY.

3. ACCORDING TO LAPOINTE, DAVIS' SPEECH MUST BE READ IN CONTEXT OF PREVIOUSLY ANNOUNCED GOC LOS POLICY. LAPOINTE SAID DAVIS' SPEECH REPRESENTS A " PERHAPS MIS-LEADING DISTILLATION" OF GOC POLICY BUT DOES NOT REPRESENT A DEPARTURE FROM IT. ACCORDING TO LAPOINTE, DAVIS' ADVOCACY OF " EXCLUSIVE FISHING RIGHTS" MIGHT MORE PROPERLY HAVE READ " EXCLUSIVE RIGHT TO MANAGE FISHERIES". THE GOC SUPPORTS THE CONCEPT OF EXCLUSIVE MANAGEMENT BY THE COASTAL STATE AS WELL AS A PREFERENTIAL RIGHT TO HARVEST. LAPOINTE ADDED THAT THIS PREFERENTIAL RIGHT TO HARVEST WOULD PROBABLY MEAN IN MANY CASES THAT THE COASTAL STATE WOULD RESERVE FOR ITSELF 100 PER CENT OF THE CATCH IN CERTAIN SPECIES. THEREFORE, LAPOINTE ARGUED, EXCLUSIVE MANAGEMENT AND EXCLUSIVE FISHING RIGHTS MIGHT IN MANY CASES BE THE SAME. HE HASTENED TO ADD, HOWEVER, THAT CURRENT GOC POLICY IS ONE OF SUPPORT FOR EXCLUSIVE MANAGEMENT, NOT EXCLUSIVE FISHING JURISDICTION.

4. LAPOINTE DENIED THAT DAVIS' REMARKS REPRESENT A SHIFT IN CANADIAN POLICY TO A " ZONAL JURISDICTION CONCEPT." HE SAID THE GOC POSITION IS STILL FUNCTIONAL IN CHARACTER. HE ADDED, HOWEVER, THAT BOTH CANADA AND THE U. S. BELIEVE THAT FISH SHOULD BE MANAGED " WHERE THEY ARE" AND THAT FOR THE PURPOSES OF HIS SPEECH DAVIS HAD MERELY STRESSED THE CONTINENTAL MARGIN BECAUSE THIS IS WHERE " THE FISH ARE." LAPOINTE NOTED THAT DAVIS WAS REFERRING ONLY TO COASTAL SPECIES IN HIS REMARKS.

5. FINALLY, LAPOINTE STRESSED THAT MANY OF DAVIS' REMARKS HAD BEEN PREDICTIVE IN CHARACTER AND NOT STATEMENTS OF POLICY. DAVIS HAD BASED HIS REMARKS ON THE PREDICTION THAT THE LOS CONFERENCE WOULD RESULT IN A MINIMUM 200- MILE FISHING JURISDICTION. APPLEBAUM SAID THAT EXTAFF AGREES WITH THIS ASSESSMENT OF THE LIKELY OUTCOME OF THE CONFERENCE ALTHOUGH LAPOINTE STRESSED THAT THE GOC IS NOT ADVOCATING THIS POSITION AT THIS TIME. AND, HE ADDED, THE GOC MAY NEVER ADVOCATE SUCH A CONFIDENTIAL

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POSITION, BUT THAT WILL DEPEND ON WHAT HAPPENS IN THE NEGOTIATIONS.

6. COMMENT: IT IS PROBABLE THAT MINISTER DAVIS HAS ONCE AGAIN EMBARKED ON A STATEMENT DESIGNED TO ADVANCE HIS POLITICAL ASPIRATIONS RATHER THAN TO REFLECT GOVERNMENT POLICY. HOWEVER, THE DAVIS SPEECH HAS ALREADY HAD

NEGATIVE FALLOUT IN THAT THE PROGRESSIVE CONSERVATIVE  
OPPOSITION, IN AN EFFORT NOT TO BE OUTDONE BY MINISTER  
DAVIS, HAS IMPLIED THAT IT TOO SUPPORTS THE BROADEST  
POSSIBLE FISHING ZONE. IN ADDITION, DAVIS MAY WELL BE,  
INADVERTENTLY OR CONSCIOUSLY, TRAPPING THE GOVERNMENT  
INTO TAKING A STRONGER LOS POSITION THAN IT MAY  
PRESENTLY BE INCLINED TO TAKE. AS ONE EXTAFF OFFICER  
NOTED PRIVATELY, THERE IS NO WAY OF KNOWING IF DAVIS  
IS ONLY TRYING TO SCORE SHORT- TERM POLITICAL POINTS OR  
IF HE IS ACTUALLY BUILDING A CASE FOR MODIFICATION OF  
THE GOVERNMENT' S POLICY. FOR OUR PART, WE ARE RE-  
LUCTANT TO ACCEPT WITHOUT QUESTION THE ASSURANCE OF  
EXTAFF LEGAL OFFICERS THAT THE STATEMENT BY MINISTER  
DAVIS DOES NOT REPRESENT A PRESENT OR POTENTIAL CHANGE  
IN GOC POLICY AND THEREFORE WE PROPOSE TO SEEK CLARI-  
FICATION OF THE MINISTER' S REMARKS AT AN APPROPRIATELY  
HIGH LEVEL. ANY GUIDANCE DEPT MAY OFFER REGARDING THIS  
APPROACH, INCLUDING ITS TENOR, ITS SUBSTANCE, AND ITS  
INDIVIDUAL OFFICIALS TO BE TARGETTED FOR CLARIFICATION,  
WILL BE APPRECIATED.  
SCHMIDT

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